

Andrew Sinclair 5/30/2024

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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----X  
UNITED STATES OF AMERICA,  
PLAINTIFF,

-against-

Case No.:  
22-CV-1159

B4B Earth Tea LLC, a limited liability  
Company; B4B Corp., a corporation; and  
ANDREW MARTIN SINCLAIR, individually  
And as an officer of B4B Earth Tea LLC and  
B4B Corp.

DEFENDANTS.

-----X

DATE: May 30, 2024

TIME: 9:32 A.M.

DEPOSITION of the Defendant,  
ANDREW SINCLAIR, taken by the Plaintiff,  
pursuant to the Federal Rules of Civil  
Procedure, held at the United States  
District Court, Eastern District of New  
York, 225 Cadman Plaza East, Brooklyn  
11201, before Soraye McMillan, a Notary  
Public of the State of New York.

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1

2 A P P E A R A N C E S:

3

4 CONSUMER PROTECTION BRANCH  
5 U.S. DEPARTMENT OF JUSTICE  
6 Attorneys for the Plaintiff  
7 450 5th Street, NW, Suite 6400-S  
8 Washington, DC 20001  
9 BY: JAMES T. NELSON, ESQ.

7

8

9 PRO SE  
10 9703 Suptin Boulevard, unit 350008  
11 Jamacia, New York 11435.  
12 BY: ANDREW SINCLAIR

11

12

13 ALSO PRESENT:

13

14 MICHAEL S. BLUME - Attorney  
15 ASSISTANT UNITED STATES ATTORNEY

15

16 ALSO PRESENT VIA PHONE:

16

17 ZACHARY A. DIETERT - Assistant Director  
18 Consumer Protection Branch  
19 U.S. Department of Justice

20 ROBERT VAN SOMEREN GREVE -  
21 Consumer Protection Branch  
22 U.S. Department of Justice

23 DAVID CROCKETT - Trial Attorney  
24 Consumer Protection Branch  
25 U.S. Department of Justice

26 MICHAEL SHANE - Attorney  
27 FOOD AND DRUG ADMINISTRATION

24

25

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1

2 F E D E R A L S T I P U L A T I O N S

3

4

5 IT IS HEREBY STIPULATED AND AGREED by and  
6 between the counsel for the respective  
7 parties herein that the sealing, filing and  
8 certification of the within deposition be  
9 waived; that the original of the deposition  
10 may be signed and sworn to by the witness  
11 before anyone authorized to administer an  
12 oath, with the same effect as if signed  
13 before a Judge of the Court; that an  
14 unsigned copy of the deposition may be used  
15 with the same force and effect as if signed  
16 by the witness, 30 days after service of  
17 the original & 1 copy of same upon counsel  
18 for the witness.

19

20 IT IS FURTHER STIPULATED AND AGREED that  
21 all objections except as to form, are  
22 reserved to the time of trial.

23

24

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1 A. SINCLAIR

2 A N D R E W S I N C L A I R, called as a  
3 witness, having been first duly sworn by a  
4 Notary Public of the State of New York, was  
5 examined and testified as follows:

6 EXAMINATION BY

7 MR. NELSON:

8 Q. Please state your name for the  
9 record.

10 A. Andrew Sinclair.

11 Q. What is your address?

12 A. 9703 Sutphin Boulevard,  
13 Jamaica, New York 11435.

14 MR. NELSON: To note for the  
15 record, I am Jim Nelson. I believe,  
16 Mr. Sinclair, we met a few minutes  
17 ago for the first time; is that  
18 right?

19 THE WITNESS: Yes.

20 MR. NELSON: This is Michael Blume in  
21 the room with me, and on the  
22 telephone are Zachary Dietert from  
23 the U.S. Department of Justice,  
24 Consumer Protection Branch; also  
25 David Crockett from the Consumer

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1 A. SINCLAIR

2 A. Okay.

3 Q. I've printed out some of your  
4 posts, and I'm going to play parts some of  
5 your video posts so you can see them,  
6 documents --

7 (Simultaneous talking.)

8 A. Okay.

9 Q. -- you can look at them when I  
10 can ask you questions about it. All right?

11 A. Okay.

12 MR. NELSON: Mark this as  
13 Exhibit 2.

14 Q. I'm handing you what has been  
15 marked as Exhibit 2.

16 Now, this is a post that you  
17 made on Twitter on August 4th, 2020,  
18 correct?

19 A. 2020, okay.

20 Q. August 4th -- so you made that  
21 post?

22 A. It shows there.

23 Q. Okay.

24 It's just a background  
25 question. I'm just confirming.

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1 A. SINCLAIR

2 A. Yeah, that's me.

3 Q. Okay.

4 In that post you said, "Earth  
5 Tea, proven natural treatment for COVID-19  
6 by B4B Corp. Works in minutes. Get you  
7 feeling normal within 24 hours."

8 A. Okay.

9 Q. Right, you said that in this  
10 post?

11 A. Yes.

12 Q. And then below that you also  
13 said, "Earth Tea proven treatment for  
14 COVID-19. Works within minutes. Get out  
15 of quarantine within 24 hours guaranteed."

16 Correct?

17 A. Yeah.

18 Q. You made both of those  
19 statements?

20 A. Yes.

21 Q. And this was even before the  
22 clinical trial in India happen, right?

23 A. Yes. But, again, what is Earth  
24 Tea?

25 Q. I'm not here to answer

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1 A. SINCLAIR

2 so far Earth Tea extra strength is a  
3 hundred percent. We have helped people who  
4 are vaccinated. No one who is positive and  
5 used Earth Tea went to the hospital."

6 Correct?

7 A. Yes. That's me comparing  
8 information, public information, yes.

9 Q. In that post, you're saying  
10 that Earth Tea is better against COVID-19  
11 than the vaccine, right?

12 A. I -- the post says what it  
13 says. Don't try to put any words in it or  
14 in my mouth. Whatever is posted, that is  
15 what I am going to say. Comparing --

16 Q. You said the words in this  
17 comparing Earth Tea --

18 (Simultaneous talking.)

19 A. Comparing the public result --

20 (Simultaneous talking.)

21 A. -- with my result.

22 Q. And then in the purple  
23 background, the white text you said,  
24 "COVID-19 positive. Vax or no vax, grab 2  
25 bottles of Earth Tea extra strength and get

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1 A. SINCLAIR

2 over it within 48 hours guaranteed."

3 Correct?

4 A. Well, that's what the post  
5 says, yes.

6 MR. NELSON: Marking this as  
7 Exhibit Number 9.

8 Q. There is a lot here, but I will  
9 direct you to a specific portion.

10 But just in general, this is a  
11 collection of posts on Facebook that you  
12 made about Earth Tea, right?

13 Go ahead and take a look at it.

14 A. (Reviewing document.)

15 Q. This is a collection of posts  
16 on Facebook that you made about Earth Tea,  
17 correct?

18 A. (Reviewing document.)

19 I think it's the same you just  
20 showed me earlier, but... It's the same  
21 thing as Exhibit 6, 7, 8. Same thing.

22 Q. Some of them might be similar,  
23 but this is a collection of Facebook posts  
24 that you made about Earth Tea, right?

25 A. (Reviewing document.)



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1 A. SINCLAIR

2 A. Yes. Same as Exhibit 7.

3 Q. You made that statement?

4 A. Yes.

5 Q. You can put that aside.

6 I'm handing you what's been  
7 marked Exhibit 10.

8 And that's a Twitter post that  
9 you made about Earth Tea on August 4th,  
10 2020, correct?

11 A. Yes. Again, this is prior to  
12 the warning letter.

13 Q. And in this post you said,  
14 "Earth Tea proven natural treatment for  
15 COVID-19 by B4B Corp. Works in minutes.  
16 Get you feeling normal within 24 hours."  
17 Correct?

18 A. Yes.

19 Q. And the picture that you  
20 included in your post -- with your post  
21 says, "Get out of quarantine within 24  
22 hours guaranteed."

23 Correct?

24 A. It's same as Exhibit 2. That's  
25 a duplicate question.

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1 A. SINCLAIR

2 Q. I want to confirm, you made  
3 that post?

4 A. But you're asking me duplicate  
5 questions, sir.

6 Q. Some of these may look very  
7 similar --

8 (Simultaneous talking.)

9 A. It's the same post.

10 Q. Handing you what has been  
11 marked Exhibit 11.

12 This is two Twitter posts that  
13 you made about Earth Tea on September 1st  
14 and 2nd of 2020, correct?

15 A. Yes, prior to the warning  
16 letter.

17 Q. And in the bottom post you  
18 said, "We are a hundred percent sure Earth  
19 Tea gets rid of COVID-19, coronavirus. And  
20 it does it fast. One big question now is  
21 can it be considered a vaccine? One result  
22 shows that it can protect."

23 Correct?

24 A. Yes.

25 Q. Handing you Exhibit 12. This

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1 A. SINCLAIR

2 Q. You can put that aside.

3 Handing you what has been  
4 marked Exhibit 20.

5 This is a Twitter post that you  
6 made about Earth Tea on January 17th, 2022,  
7 correct?

8 A. Yes.

9 Q. And in the post you said that,  
10 "Proof and natural approach can work but  
11 bias is the reason why people are dying. A  
12 pill works the very same way Earth Tea  
13 extra strength works, and Earth Tea extra  
14 strength is 100% effective against  
15 COVID-19. Earth Tea extra strength  
16 prevents death and stops COVID-19."

17 Correct?

18 A. Yeah, I suppose.

19 Q. You made that statement?

20 A. Yes. For immune support, yes.

21 Q. Handing you Exhibit 21.

22 And the lower half of the page  
23 is the Twitter post that you made about  
24 Earth Tea on January 21st, 2022, correct?

25 Starts right there.

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1 A. SINCLAIR

2 It's not false or misleading.

3 Q. I'm handing you Exhibit 22.

4 A. Yes.

5 Q. You got a post -- I will put on  
6 the record for you, for you're responding  
7 to a post about Cannabis derived gummies,  
8 right?

9 I don't need you to read it --

10 THE COURT REPORTER: Hold on,  
11 Counsel, Cannabis what?

12 MR. NELSON: Cannabis derived  
13 gummies.

14 THE WITNESS: And it says  
15 cannabis can prevent COVID.

16 Q. My question to you is about  
17 your post at the bottom half of the page.

18 A. Sir, don't try to be unfair to  
19 me.

20 Q. I'm allowed to ask you about  
21 specific portions of documents.

22 A. You're not talking about a  
23 post. You're talking about a reply. You  
24 got to say what I replied to.

25 Q. It really doesn't matter.

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1 A. SINCLAIR

2 Q. Handing you Exhibit 23.

3 At the bottom of this page is a  
4 twitter post you made about Earth Tea,  
5 correct?

6 A. Which one? There's, one, two,  
7 three -- there's four posts here. Which  
8 one are you talking about?

9 Q. The one that starts, "We are  
10 the world's first..."

11 A. "We are the world's official  
12 plant based company"?

13 Q. Yes. Can you continue on...

14 A. We -- "...plants are used to  
15 improve our health." That's it. "We are  
16 the world's first official plant based  
17 company where plants are used to improve  
18 our health."

19 Q. Sure.

20 And then in the post below,  
21 would you read that also, please?

22 A. Well, someone says -- someone  
23 posted and says, "This says something  
24 else." You know that, right? I don't know  
25 what that means.

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1 A. SINCLAIR

2 Q. And in the last post you said,  
3 "We are the first successful plant based  
4 company."

5 A. Someone posted and said, "Dude,  
6 dude claim his tea is the first plant based  
7 tea." That's what the post said.

8 Q. So you were responding to that.  
9 And in the bottom post you  
10 said, "We are the first successful plant  
11 based company. Find me a plant based  
12 product that is guaranteed to help with  
13 issues, one that is a hundred percent  
14 guaranteed, that's used with a hundred  
15 percent success."

16 Correct?

17 A. Yes, that's mine. Yeah.

18 Q. And you made those two posts,  
19 and you were talking about Earth Tea when  
20 you made those posts?

21 A. Well, on the post here, someone  
22 shared my -- I guess my page. So that's --  
23 the post that says, "We are the world's  
24 first plant based company where plants are  
25 used to improve our health," someone posted

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1 A. SINCLAIR

2 that. That's not me. When they posted  
3 that, they said, "Dude claim his tea is the  
4 first plant based tea. This says something  
5 else."

6 You know that, right?

7 Then I responded and said, "We  
8 are the first successful plant based  
9 company. Find me a plant based product  
10 guaranteed to help with issues, one that is  
11 a hundred percent guaranteed with its use"  
12 -- "one that is a hundred percent  
13 guaranteed, it's used at a hundred percent  
14 success." So that's what I posted.

15 Q. And you made those posts on --

16 A. That one post.

17 Q. -- on March 22nd, 2203,  
18 correct?

19 A. Yeah. And, again, the only  
20 thing that's missing is the disclaimer.  
21 That is not illegal. It's not false, and  
22 it's not misleading.

23 Q. Handing you Exhibit 24.

24 This is a Twitter post that you  
25 made about Earth Tea on November 21st,

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1 A. SINCLAIR

2 2021, correct?

3 A. Yes.

4 Q. And in that post you said, "If  
5 your plan is to go unvaccinated, here's a  
6 must have natural immune booster. Earth  
7 Tea extra strength, it works extremely fast  
8 and it's a hundred percent effective  
9 against COVID-19."

10 Correct?

11 A. The article said, "GOP embraced  
12 natural immunity as substitute for  
13 COVID-19." My post says, "If your plan is  
14 to go unvaccinated, here's a must have  
15 natural immune booster. Earth Tea extra  
16 strength, it works extremely fast and it's  
17 a hundred percent effective against  
18 COVID-19."

19 Yes, that was my post.

20 Q. And you made that on November  
21 21st, 2021, correct?

22 A. Yes.

23 Q. Handing you Exhibit 25.

24 A. Exhibit 25.

25 Q. This is a Twitter post that you



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1 A. SINCLAIR

2 made about Earth Tea on December 23rd,

3 2021, correct?

4 A. Okay, yup.

5 Q. And in the post you said,

6 "Please help us prevent 900,000 U.S. deaths

7 from #COVID-19. If you're positive, grab 2

8 bottles. The moment you get your result or

9 start feeling symptoms, order 2 bottles

10 right away. EarthTea.US. Our volunteers

11 all reported success. You will start

12 feeling better within two hours."

13 Correct?

14 A. Yes.

15 Q. I'm handing you Exhibit 26.

16 This is a Twitter post that you

17 made about Earth Tea on December 22nd,

18 2021, correct?

19 A. "We can form a unified group

20 with the message" --

21 THE COURT REPORTER: I'm sorry,

22 say it again.

23 A. "We can form a unified group

24 with the message Earth Tea extra strength

25 works 100 percent and is more effective

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1 A. SINCLAIR

2 than the vaccine for recovery. It works  
3 fast 24-48 hours. 2 bottles guaranteed.  
4 100 percent clinical study and volunteers  
5 all recovered 100%. #unvaxxed. It should  
6 be an option."

7 Q. And you made that Twitter post  
8 on --

9 A. Yes, I did.

10 Q. -- on December 22nd, 2021?

11 A. Yes.

12 Q. Handing you Exhibit 27.

13 And this is a Twitter post that  
14 you made about Earth Tea on October 1st of  
15 2020, correct?

16 A. Yes, prior to the warning  
17 letter.

18 Q. And in the first post you said,  
19 "Earth Tea can make cruise ships safer. If  
20 everyone who boards a cruise ship drinks  
21 one bottle of Earth Tea before boarding,  
22 that will keep COVID-19 off board. With  
23 Earth Tea on board on ice if it do gets on  
24 board, Earth Tea can quickly control it  
25 with backup bottles on board."

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1 A. SINCLAIR

2 same question twice.

3 Q. I'm asking you about this  
4 exhibit. Are you going to refuse to  
5 answer?

6 A. It's the same exhibit, sir.

7 Q. You posted them on different  
8 social media --

9 A. It's not even legal for you to  
10 ask me the same question.

11 Q. It's either you posted it or  
12 not --

13 A. Don't do that. You're trying  
14 to get two different answers. Don't do  
15 that --

16 (Simultaneous talking.)

17 Q. No, it's a different exhibit.

18 A. No, don't ask me no question  
19 twice.

20 Q. So you're going to refuse to  
21 answer?

22 A. I'm going to refuse to answer  
23 if you ask me the same question twice.

24 Q. I'm handing you Exhibit 29.  
25 You may have to be deposed

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1 A. SINCLAIR

2 again over some of these issues that you're  
3 refusing to answer. I just want to make  
4 that's clear.

5 This is a Twitter post that you  
6 made about Earth Tea on December 8th, 2022,  
7 correct?

8 A. Yup.

9 Q. And in your post you said,  
10 "Honestly this could have ended the  
11 pandemic if the FDA had just listened to me  
12 or took me serious. In April 2020 I told  
13 the FDA I have something natural that works  
14 a hundred percent."

15 Correct?

16 A. Yup.

17 Q. Handing you Exhibit 30.

18 On the bottom half of the page,  
19 this Twitter post that you made about Earth  
20 Tea on January 17th, 2022, correct?

21 A. Yes.

22 Q. And in your post you said, "For  
23 the last time try Earth Tea extra strength  
24 against COVID-19. It's the only a hundred  
25 percent guaranteed natural option that will

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1 A. SINCLAIR

2 totally get COVID out of your system and  
3 prevent long-term damage."

4 Correct?

5 A. Yes, that was a reply to  
6 someone's post.

7 Q. You made that post?

8 A. Yes, I made that post.

9 Q. I'm handing you Exhibit 31.

10 This is an Instagram post you  
11 made about Earth Tea on October 13th, 2021,  
12 correct?

13 A. Yes.

14 Q. And in this post you said, "Our  
15 clinical trial documents to be published  
16 soon. Stay tuned. Clinical trial #1  
17 completed. 15 patients tried Earth Tea  
18 extra strength, 8 ounce cold during the day  
19 and then 8 ounce hot before bed and then  
20 tested 48 hours after. 15 people who was  
21 tested positive tried Earth Tea extra  
22 strength 16 ounce bottle. They took 8  
23 ounce cold during the day and then 8 ounce  
24 hot before bed. They were then tested 48  
25 hours after and the result is 14 came back

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1 A. SINCLAIR

2 at them, and I will ask you some questions  
3 about them.

4 A. Okay.

5 MR. NELSON: I'm marking this  
6 Exhibit 46.

7 Q. This is a text conversation  
8 between you and Paulee J., a potential  
9 customer, right?

10 A. Paulee J., okay.

11 Q. And he asks about -- page 2, I  
12 think you tell him, "You can orderer from  
13 our website," that's up at the top, page 2.  
14 Then he asked, "Is it good for Omri  
15 Corona?"

16 Do you see that?

17 O-M-R-I, space, Corona.

18 A. What date is this?

19 Q. We only have the information  
20 that you provided, and some of these don't  
21 have dates.

22 Right here he says, "Is it good  
23 for Omri Corona?"

24 Do you see that?

25 A. Omri Corona. (Reviewing

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1 A. SINCLAIR

2 document.)

3 I don't remember this exact  
4 conversation, but if that's my page, then I  
5 guess that's me.

6 Q. Do you have any reason to  
7 believe that these documents you produced  
8 is not your conversations with folks like  
9 Paulee J.?

10 A. I -- I don't know. Because  
11 when the lawsuit started, for some reason I  
12 couldn't access my messaging, and then all  
13 of a sudden I got access. So I don't know  
14 what happened in between. But I don't  
15 remember this specific conversation here.

16 Q. Do you have any reason to  
17 believe this conversation didn't happen as  
18 you produced it to us?

19 A. If I give it to you, then --  
20 you know, who gave it to you?

21 Q. You did.

22 A. Then it's there.

23 Q. Do you have an understanding  
24 what -- what Paulee J. Was asking if it's  
25 good for Omri Corona?

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1 A. SINCLAIR

2 A. I guess he was asking if it's  
3 good for COVID.

4 Q. And you told him, "2 bottles  
5 guaranteed and" --

6 A. Get 2 bottles.

7 Q. -- "and you will be good  
8 starting from 2 to 48 hours"?

9 A. Yes.

10 Q. Handing you Exhibit 47.

11 And this is a text conversation  
12 that you had about Earth Tea with a  
13 potential customer whose name is Marty Mar  
14 (phonetic). Do you see that?

15 A. This is a text. From where?

16 Q. Well, you produced this to us  
17 in discovery.

18 A. Oh, I produced this to you?  
19 Okay.

20 Q. So what is your understanding;  
21 is this a text, is this an app chat?

22 A. Okay. Yes, it's a text.

23 Q. Okay.

24 And he asks, "Does the stuff  
25 cure disease?"



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A. SINCLAIR

C E R T I F I C A T E

STATE OF NEW YORK)

:SS

COUNTY OF KINGS)

I, SORAYE MCMILLAN, a Notary Public  
within and for the State of New York, do  
hereby certify:

THAT ANDREW SINCLAIR, the witness  
whose deposition is hereinbefore set forth,  
was duly sworn by me and that such  
deposition is a true record of the  
testimony given by such witness.

I further certify that I am not  
related to any of the parties to this  
action by blood or marriage; and that I am  
in no way interested in the outcome of this  
matter.

IN WITNESS WHEREOF, I have hereunto  
set my hand this 30th of May 2024.

/s/ Soraye McMillan

SORAYE MCMILLAN